UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,223	09/28/2001	James B. Kargman	2002052	5896

			EXAMINER
34018	7590	11/02/2006	BACKER, FIRMIN

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ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 October 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on October 16th, 2006 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-39 have been considered but are moot in

view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Movalli et al

(U.S. PG Pub No. 2005/0004876 A1) in view of Walker et al (U.S. PG Pub No. 2003/0149632

A1).

5.   As per claim 1, 18, Movalli et al teach a method of electronically executing a commercial

transaction between a customer and a vendor, the method comprising transmitting electronically

a transaction code from the customer to an electronic order processing system associated with the

vendor; receiving the transaction code by the order processing system associated with the

vendor; identifying the user based upon the contents of the transaction code; authenticating the

transaction code; identifying a commercial transaction associated with the transaction code; and

executing the identified commercial transaction (*see figs 4, 5, paragraphs 0046-0051*). Movalli

et al fail to teach transaction between a remotely located customer and a vendor. However,

Walker et al teach transaction between a remotely located customer and a vendor (*see fig 1, pps

0044, 0045*). Therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify Movalli et al's disclosure to include Walker et al's transaction

between a remotely located customer and a vendor because this would have enhance the

flexibility of the transaction system.

6.   As per claim 2, 20, Movalli et al teach a method where the transaction code is comprised

of a telephone dialing sequence, and applying the transaction code dial sequence to a line

associated with a public switched telephone network (*see figs 1*).

7.   As per claim 3, 21, Movalli et al teach a method in which the transaction code is

comprised of a Universal Resource Locator, and the transaction code is transmitted via the

Internet (*see fig 1, 2, 3*).

8.   As per claim 4, 19 Movalli et al teach a method of transmitting a transaction code that has

been previously stored within digital memory associated with a wireless telephone via a wireless

communications network *(see fig 1)*.

9.   As per claim 5, Movalli et al teach a method of identifying the contents of a user

identification data field within the transaction code; locating the user identification data field

contents within a database accessible by the order processing system *(see paragraphs 0046-

0051)*.

10.   As per claim 6, Movalli et al teach a method of identifying the contents of a security code

field within the transaction code; determining that the received transaction code is authentic

when the contents of the security code field correspond to a previously-configured security code

associated with the contents of the user identification data field, which previously-configured

security code is stored within a database accessible by the order processing system *(see

paragraphs 0046-0051)*.

11.   As per claim 7, Movalli et al teach a method of identifying a decryption key associated

with the contents of the user identification data field; decrypting at least a portion of the

transaction code using the identified decryption key; determining whether the decrypted portion

of the transaction code is valid *(see paragraphs 0046-0051)*.

12.   As per claim 8, Movalli et al teach a method of identifying a decryption key based upon

the identity of the user; decrypting at least a portion of the transaction code using the decryption

key (*see paragraphs 0054*).

13.   As per claim 9, Movalli et al teach a method of determining the contents of a transaction

identification field within the transaction code; locating the contents of the transaction

identification field within a database accessible by the order processing system; identifying the

nature of the commercial transaction based upon information within the database associated with

the contents of the transaction identification field (*see paragraphs 0046-0051*).

14.   As per claim 10, Movalli et al teach a method of determining the contents of a transaction

identification field within the transaction code; identifying the nature of the commercial

transaction based upon information within the transaction identification field (*see paragraphs

0046-0051*).

15.   As per claim 11, Movalli et al teach a method of locating a record within a database

associated with the order processing system based upon the identity of the user; retrieving details

of the commercial transaction from the database record associated with the user (*see paragraphs

0046-0051*).

16.   As per claim 12, Movalli et al teach a method maintained within a point of sale computer

system operated by the vendor (*see fig 1, 2*).

17.   As per claim 13, Movalli et al teach a method of entering the identified commercial transaction into a point of sale computer system operated by the vendor *(see fig 1)*.

18.   As per claim 14, Movalli et al teach a method of electronically executing a commercial transaction between a customer and a vendor, the method comprising dialing a transaction code comprised of a telephone dial sequence onto a telephone network directed to an order processing system associated with the vendor; receiving a telephone call by the order processing system as a result of the dialing of the transaction code; detecting caller identification information received by the order processing system from the telephone network in conjunction with the telephone call; detecting at least a portion of the transaction code dial sequence by the order processing system associated with the vendor; identifying the user based upon the caller identification information received by the order processing system; identifying a commercial transaction associated with the transaction code; and executing the identified commercial transaction *(see figs 4, 5, paragraphs 0046-0051)*. Movalli et al fail to teach transaction between a remotely located customer and a vendor. However, Walker et al teach transaction between a remotely located customer and a vendor *(see fig 1, pps 0044, 0045)*. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Movalli et al's disclosure to include Walker et al's transaction between a remotely located customer and a vendor because this would have enhance the flexibility of the transaction system.

19.   As per claim 15, Movalli et al teach a method identifying a record in a database

associated with the order processing system based upon the received caller identification

information; retrieving details of the commercial transaction from the database record associated

with the received caller identification information (*see figs 1*).

20.   As per claim 16, Movalli et al teach a method of authenticating the user before executing

the identified commercial transaction (*see figs 4, 5, paragraphs 0046-0051*).

21.   As per claim 17, Movalli et al teach a method prompting the user to enter a passcode;

determining that the passcode entered corresponds to a passcode value previously stored within a

database record associated with the caller identification information (*see figs 4, 5, paragraphs

0046-0051*).

22.   As per claim 22, Movalli et al teach a method conveyed to the electronic device via

wireless messaging (*see fig 1, 2, 3*).

23.   As per claim 23, Movalli et al teach a method identifying wireless message as a

transaction code capable of storage within the user device; programming the transaction code

into digital memory within the user device without requiring substantial intervention by the user

(*see figs 4, 5, paragraphs 0046-0051*).

24.   As per claim 24, Movalli et al teach a method where the transaction code is generated by

a point of sale system associated with the vendor in response to a request by the customer *(see*

figs 1).

25.   As per claim 25, Movalli et al teach a method for the dissemination of information to a

mobile electronic user device based upon the device location, for the facilitation of a commercial

transaction between a customer and a vendor, the method comprising the steps of: identifying the

location of the user device; determining that the location of the user device conforms to a

predetermined location criterion for receipt of a message; conveying the message to the user

device electronically *(see figs 4, 5, paragraphs 0046-0051)*. Movalli et al fail to teach transaction

between a remotely located customer and a vendor. However, Walker et al teach transaction

between a remotely located customer and a vendor *(see fig 1, pps 0044, 0045)*. Therefore it

would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Movalli et al's disclosure to include Walker et al's transaction between a remotely

located customer and a vendor because this would have enhance the flexibility of the transaction

system.

26.   As per claim 26, Movalli et al teach a method in which the message is a transaction code

which can be stored within the user device and subsequently transmitted by the user device to

initiate a commercial transaction *(see fig 1, 2, 3)*.

27.   As per claim 27, Movalli et al teach a method of determining that the location of the user

device conforms to a predetermined criterion for receipt of a message is comprised of the step of

determining that the location of the user device lies within a predetermined geographical region

associated with the vendor (*see figs 4, 5, paragraphs 0046-0051*).

28.   As per claim 28, Movalli et al teach a method in which the user device is a cellular

telephone, and the step of identifying the location of the user device is performed via

triangulation techniques implemented by the communications infrastructure with which the

cellular telephone operates (*see figs 4, 5, paragraphs 0046-0051*).

29.   As per claim 29, Movalli et al teach a method in which the user device includes a global

positioning system receiver, and the step of identifying the location of the user device is

performed by receiving location information provided by the global positioning system receiver

(*see fig 1, 2*).

30.   As per claim 30, Movalli et al teach a method of determining that the message satisfies

one or more filter criteria preconfigured by the customer (*see fig 1, 2*).

31.   As per claim 31, Movalli et al teach a method which the filter criteria are satisfied when

one or more of the following message attributes conform to predetermined user preferences: the

identity of the vendor; the geographical location of the vendor; the zip code in which the vendor

is located; the city in which the vendor is located; the nature of the business conducted by the

vendor; the frequency with which the customer enters the area in which the vendor does

business; and the frequency with which the customer receives messages from the vendor (*see figs 4, 5, paragraphs 0046-0051*).

32.   As per claim 32, Movalli et al teach a method of automatically deleting the transaction

code from the user device upon the satisfaction of a deletion criterion (*see figs 4, 5, paragraphs 0046-0051*).

33.   As per claim 33, Movalli et al teach a method which the deletion criterion is the

expiration of a predetermined period of time since the transaction code was stored within the

user device (*see figs 1*).

34.   As per claim 34, Movalli et al teach a method which the deletion criterion is the

transmission of the transaction code by the user device (*see fig 1, 2, 3*).

35.   As per claim 35, Movalli et al teach a method which the deletion criterion is the

transportation of the user device a predetermined distance from a location associated with the

vendor (*see fig 1, 2, 3*).

36.   As per claim 36, Movalli et al teach a method comprised of map information identifying

the location of the user device and a location associated with the vendor (*see figs 4, 5, paragraphs 0046-0051*).

37. As per claim 37, Movalli et al teach a method of dissemination of information to a mobile electronic user device based upon the device location, for the facilitation of a commercial transaction between a customer and a vendor, the method comprising the steps of: identifying the current location of the user device; identifying the direction and rate at which the user device is moving; determining that the location, direction of travel and rate of travel of the user device conform to one or more predetermined criterion for receipt of a message; conveying the message to the user device electronically (see figs 4, 5, paragraphs 0046-0051). Movalli et al fail to teach transaction between a remotely located customer and a vendor. However, Walker et al teach transaction between a remotely located customer and a vendor (see fig 1, pps 0044, 0045). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Movalli et al's disclosure to include Walker et al's transaction between a remotely located customer and a vendor because this would have enhance the flexibility of the transaction system.

38. As per claim 38, Movalli et al teach a method of determining the anticipated location of the user device at a predetermined time in the future based upon the current location, rate of travel and direction of travel; determining that the anticipated location of the user lies within a predetermined region associated with the vendor (see figs 4, 5, paragraphs 0046-0051).

39. As per claim 39, Movalli et al teach a method of calculating a radius of accessibility for the customer operating the user device as an estimate of the geographical region over which the
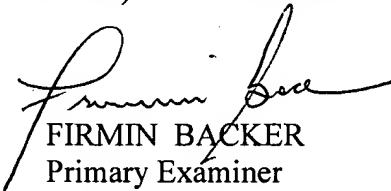
customer would travel to engage in a commercial transaction, which calculation is based upon

the location, rate of travel and direction of travel of the user device; determining that a location

associated with the vendor lies within the radius of accessibility (*see figs 4, 5, paragraphs 0046-*

0051).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to FIRMIN BACKER whose telephone number is 571-272-6703.

The examiner can normally be reached on Monday - Thursday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FIRMIN BACKER
Primary Examiner
Art Unit 3621

October 27, 2006